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PATENT APPLICATION
Attorney's Docket No.: MEI-014CP (1855.2067-018)

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OFFICE OF PETITIONS

Applicant: Sean A. McCarthy

Application No.: 08/842,898 (ABANDONED) Group: 1646

Filed: April 17, 1997 Examiner: David S. Romeo

For: NOVEL CRSP-1 COMPOSITIONS AND THERAPEUTIC AND DIAGNOSTIC
USES THEREFOR

Date: February 27, 2004

EXPRESS MAIL LABEL NO. EL 955641167 US

PETITION UNDER 37 C.F.R. § 1.182 OR § 1.183
REQUESTING ENTRY OF AMENDMENT

VIA EXPRESS MAIL LABEL NO. EL 955641167 US

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Petition is being filed to request entry of an amendment to the specification of the subject patent application. The undersigned recognizes that the application is currently abandoned. However, amendment of the application is necessary to perfect the priority claim under 35 U.S.C. § 120, and preserve the right to claim priority through the subject application in a subsequent pending application (Application No. 09/972,473, filed October 4, 2001).

The subject application, now abandoned, was filed by Applicant's prior counsel under 35 U.S.C. § 111 and 37 C.F.R. § 1.53(b) on April 17, 1997, with the following Related Applications paragraph:

This patent application is a continuation-in-part of U.S. Patent Application Serial No. _____, which was filed on April 16, 1997, the contents of which are incorporated herein by reference.

(Specification at page 1, lines 6-8.)

Recently, the files of pending U.S. Patent Application No. 09/972,473 and its priority applications, including the subject application, were transferred to this firm. As a result of a review of these files, the undersigned became aware that the subject application had not been amended to include the application number of the priority application filed on April 16, 1997. Accordingly, the Amendment filed concurrently herewith directs amendment of the specification of the subject application to contain the application number of the priority application, as required by former 35 U.S.C. § 120 and former 37 C.F.R. § 1.78(a)(2), which are applicable to the subject application.

This petition can and should be granted because, as stated by the court in Sampson, “[a] reading of [35 U.S.C.] § 120 makes it clear that an amendment may be entered in an abandoned application for purposes other than prosecution.” Sampson v. Commissioner of Patents and Trademarks, 195 USPQ 136, 137 (D.D.C. 1976) (Authorizing amendment of the related applications paragraph of an abandoned intermediate application to perfect a priority claim in a reissue application).

Entry of the concurrently filed Amendment is respectfully requested in order to perfect the priority claim of the subject application, and to permit Applicants to claim priority in pending U.S. Patent Application No. 09/972,473 through the subject application. The PTO is also requested to issue a Correct Filing Receipt showing the priority data claimed by Applicant.

In accordance with 37 C.F.R. § 1.182, a check in the amount of \$130.00 in payment of the petition fee under 37 C.F.R. § 1.17(h) is enclosed herewith.

To the extent that it may be necessary, please consider this paper as a Petition under either 37 C.F.R. § 1.183. Authorization to charge any deficiency or credit any overpayment in

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the fees that may be due in this matter, including any fees under 37 C.F.R. § 1.17(h), to Deposit Account Number 08-0380 is hereby granted. A copy of this letter is enclosed for accounting purposes.

The Patent Office is invited to contact the undersigned if they feel that a telephone conference would expedite resolution of this matter.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By Robert H. Underwood
Robert H. Underwood
Registration No. 45,170
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

Concord, MA 01742-9133

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